

IN THE SUPREME COURT  
OF THE  
STATE OF SOUTH DAKOTA

\* \* \* \*

IN THE MATTER OF THE AMENDMENT)  
OF SDCL 15-39-57 )

RULE 00-5

-----  
A hearing having been held on February 17, 2000, at Pierre, South Dakota, relating to the amendment of SDCL 15-39-57, and the Court having considered the proposed amendment, the correspondence and oral presentations relating thereto, if any, and being fully advised in the premises, now, therefore, it is

ORDERED that SDCL 15-39-57 be and it is hereby amended to read in its entirety as follows:

**15-39-57. Claim of trial by court or jury by defendant - Affidavit - Special rule in designated judicial circuit governing removal to the regular civil docket of the court - Entry fee and undertaking.** No party may appeal any decision entered under this procedure. In lieu thereof, defendant may, five days prior to the date upon which the defendant is notified to appear or answer, file in the court in which the action is pending, a petition to remove the action to the regular civil docket of the circuit court or magistrate court and state therein whether the defendant intends to proceed with a trial by jury or a trial to the court. Failure to make the request within the time provided shall be deemed an acceptance by the defendant to the jurisdiction of small claims court. The petition shall be supported by an affidavit that makes a showing that there are good reasons why the formal civil trial process is justified and the defendant has a meritorious defense. The sum of thirty-five dollars for entry of the action for trial in the circuit or magistrate court, as the case may be, must accompany the petition and affidavit. The defendant must also deposit the sum of two hundred fifty dollars to secure the plaintiff for costs and/or damages which the court may determine the plaintiff is reasonably entitled to receive.

Rule 00-5

IT IS FURTHER ORDERED that this rule shall become effective  
July 1, 2000.


DATED at Pierre, South Dakota, this 10th day of March, 2000.

BY THE COURT:



Robert A. Miller, Chief Justice

ATTEST:

  
Clerk of the Supreme Court  
(SEAL)

**SUPREME COURT  
STATE OF SOUTH DAKOTA  
FILED**

MAR 10 2000

  
Clerk